

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS

FOR THE DEPARTMENT OF LABOR AND INDUSTRY

Gary Bastian, Commissioner,
Department of Labor and Industry,
State of Minnesota,

Complainant,

v.

W.W. Holes Manufacturing Co., Inc.,
d/b/a Marine Outlet & R.V.,
Respondent.

ORDER DENYING
MOTION TO ENFORCE
SETTLEMENT

AGREEMENT

The above-entitled matter came on before Administrative Law Judge George A. Beck on Respondent's Motion to enforce an agreement between the parties to settle this matter.

Gerald D. Thedens, General Counsel, 975 S. Highway 10, St. Cloud, Minnesota 56304, filed the motion on behalf of the Respondent, W. W. Holes Manufacturing Co., Inc. ("W.W. Holes" or "Respondent"). Julie A. Leppink, Assistant Attorney General, 445 Minnesota Street, Suite 900, St. Paul, Minnesota 55101-2127, filed the Complainant's response to Respondent's motion. The record on this motion closed on May 10, 1995, with the receipt of the Complainant's response.

Based on the files, records, arguments of counsel, and for the reasons set forth in the following Memorandum, the Administrative Law Judge makes the following:

ORDER

Respondent's Motion to enforce a settlement agreement in this matter is DENIED.

Dated: May __, 1995.

GEORGE A. BECK
Administrative Law Judge

MEMORANDUM

W. W. Holes asserts that an agreement was reached with counsel for the Complainant on the issues in this matter. By its motion filed in this matter, Respondent seeks to enforce that agreement. Complainant asserts that there are significant differences between its settlement offer and the terms Respondent seeks to enforce.

The law on settlement agreements in lawsuits is well established.

The settlement of a lawsuit is 'contractual in nature,' Jallen v. Agre, 264 Minn. 369, 373, 119 N.W.2d 739, 743 (1963); therefore, before a settlement is reached there must first be an offer and acceptance, resulting in a meeting of the parties' minds.

Rosenberg v. Townsend, Rosenberg & Young, Inc., 376 N.W.2d 434, 437 (Minn.App. 1985).

To determine if these standards are present in this case, the positions of the parties must be examined. The Complainant maintains that the settlement negotiations ended with the following proposal:

Original fine	\$5,740
Reduce by \$245	- 245
Subtotal	5,495
Divide remaining penalty by half	÷ 2
Penalty payable to Complainant	2,748
Amount forgiven	2,748
Divide amount forgiven by half	÷ 2
Amount to be spent on safety	1,374
 Final penalty	 \$2,748
Amount to be spent on safety	1,374
Total	\$4,122

Respondent reduced what it believed to be the agreement to writing, in a letter dated March 23, 1994, and in a Stipulation of Dismissal. Respondent maintains that the settlement agreement is as follows:

Original fine	\$5,740
Reduce by \$245	- 245
Subtotal	5,495
Divide remaining penalty by half	÷ 2
Subtotal	2,748
Divide remaining amount by half	÷ 2
Penalty payable to Complainant	1,374
Amount to be spent on safety	1,374
Final penalty	\$1,374
Amount to be spent on safety	1,374
Total	\$2,748

The difference between the two amounts is \$1,374. This is almost one-quarter of the total amount of the fine, before any reductions. The difference in the amounts is strong evidence that there was no meeting of the minds in the settlement negotiations.

Respondent asserts that the Complainant agreed to the terms proposed by W. W. Holes' counsel and then chose to disregard those terms. This position is not supported by the evidence provided by Complainant. The notes taken by Complainant's representative in the settlement negotiations state in pertinent part:

3-3-94 I told Glen [Respondent's General Counsel] we'd reduce by 50% if they use 1/2 in their safety program.

25+25 (50% credit + 25 spent on safety)

Complainant's Exhibit 1 (last portion of notation obscured in photocopying).

An informal conference memorandum was prepared by the Complainant's representative on March 24, 1994. Complainant's Exhibit 2. The terms outlined in that memorandum are consistent with the Complainant's position in this motion. There is no evidence beyond Respondent's subjective perception that a settlement was agreed upon under the terms set forth in Respondent's Exhibit A. An objective standard is used for determining if a settlement has been agreed to by the parties. Rosenberg, 376 N.W.2d at 437 (citing Holman Erection Co. v. Orville E. Madsen & Sons, Inc., 330 N.W.2d 693, 695 (Minn. 1983)). Under an objective standard, there is no basis for enforcing a settlement in this matter. For these reasons, Respondent's motion must be DENIED.

G.A.B.